

Exhibit

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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK**

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In re:

ROY AND MAUREEN MENTON,

Chapter 13

Case No. 09-33356-mcr

Debtor.

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**OPPOSITION TO MOTION FOR TO VACATE STAY TO
PERMIT FORECLOSURE OF MORTGAGE ON DEBTOR'S REAL PROPERTY**

The Debtors herein, ROY AND MAUREEN MENTON (hereinafter referred to as the "Debtors"), by their undersigned attorney, opposes the motion of Citizen's Bank of Cape Vincent's (hereinafter referred to as "Citizen's Bank") to vacate the stay herein to permit foreclosure of mortgage on Debtor's real property, and in support thereof, states:

1. The Debtors with the filing of this objection are filing an amended plan which will pay the secured claim of Citizen's Bank as well as the arrears on the mortgage through the plan.
2. The Debtors have made their post-petition mortgage payment to Citizens Bank
3. The Debtors under applicable New York law as well as under Section 1322 of the Bankruptcy Code may reinstate their mortgage with Citizen's Bank. *See In re: Taddeo*, 685 F.2d 24 (2d Cir. 1982) (holding that appellees maintained their statutory right to cure and "de-accelerate" their mortgage that they had defaulted on earlier even though appellant accelerated the mortgage before appellees filed for Chapter 13 protection).
4. Citizen's Bank cites no support for their contention that the underlying mortgage here should be accelerated.

5. In addition, the Debtors are amending Schedule A to indicate a value for subject property at \$180,000 based on similar values for two-family homes in the area of the subject property.

6. This equity position provides sufficient adequate protection here for Citizen's Bank.

7. The Debtors all have insured the underlying property, which serves as adequate protection as well. Attached hereto as Exhibit A is a true copy of an insurance rider providing for the insuring of the subject property.

WHEREFORE, the Debtors pray that this Court deny the instant motion to vacate the automatic stay herein, and grant such further relief as this Court deems necessary.

Dated: New York, New York
February 17, 2010

SERPE & ASSOCIATES, P.C.
Attorney for Debtors

/s/ Sean C. Serpe
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